

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION**

DAVID A. STEBBINS

PLAINTIFF

v.

NO. 3:17-CV-3092-TLB

**STATE OF ARKANSAS, ARKANSAS
REHABILITATION SERVICES, AND
AMY JONES**

DEFENDANTS

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Come now the Defendants, the State of Arkansas, Arkansas Rehabilitation Services ("ARS"), and Amy Jones, by and through their attorneys, Attorney General Leslie Rutledge and Senior Assistant Attorney General Christine A. Cryer, and for their Motion for Summary Judgment, state as follows:

1. Plaintiff David Stebbins filed this action alleging discrimination and retaliation claims, under the Americans with Disabilities Act ("ADA") and 42 U.S.C. § 1983¹, against the State of Arkansas, Arkansas Rehabilitation Services ("ARS"), and Amy Jones, manager of the Northwest Arkansas District 1 of ARS.

2. Stebbins alleges that the Defendants discriminated against him based on his disabilities, in violation of Title II of the ADA, by denying his request for monetary funds to assist him in attend college. He alleges the Defendants denied his funding requests in retaliation for his multiple civil lawsuits.

¹ Stebbins' § 1983 claim against Defendant Jones for damages was dismissed on July 27, 2017. (DE 55)

3. Stebbins further asserts a § 1983 claim against Amy Jones claiming that her denial of his request for funding was in retaliation for him exercising his First Amendment right to engage in protected activity, i.e., his litigation history.

4. Stebbins bases his claims on the following: (a) he has filed numerous lawsuits regarding his civil rights; (b) the Defendants were aware of his litigation history; (c) he was deemed ineligible for services without being examined by a Licensed Document Examiner; (d) no reasonable accommodation was considered; (e) he made good grades from 2008 – 2010; thereby establishing he was likely to succeed in school; and (e) the Defendants fabricated the accountings of his inappropriate and hostile behavior. **(DE 79 & 82)**

5. Stebbins' claims should be dismissed for a variety of reasons. First, Stebbins has failed to exhaust his administrative remedies regarding his claims. Second, Stebbins will be unable to establish a prima facie case of discrimination under Title II of the ADA. Third, Stebbins will be unable to establish a prima facie case of ADA retaliation. And lastly, Stebbins will be unable to establish a First Amendment violation ever occurred. For these reasons, Stebbins' motion should be denied in its entirety.

6. Defendants incorporate, by reference, their Brief in Support of this motion, which they are filing contemporaneously herewith, along with Defendants' Statement of Undisputed Material Facts.

7. Attached to this motion are the following exhibits:

A. ARS Policy and Procedure Manual, Section III;

- B. Various ARS records (bates-numbered) from Stebbins' file;
- C. Certificate of Ineligibility dated December 16, 2015;
- D. Affidavit of Leslie Johnson;
- E. Affidavit of Amy Jones;
- F. Stebbins' litigation history pre-December 2015; and
- G. Stebbins' litigation history post-December 2015.

WHEREFORE, Defendants respectfully request this Court grant their motion, in its entirety, and for any and all other just and proper relief to which they may be granted.

Respectfully submitted,

Leslie Rutledge
Attorney General

By: /s/ Christine A. Cryer
Christine A. Cryer
Arkansas Bar No. 2001082
Sr. Assistant Attorney General
323 Center Street, Suite 200
Little Rock, Arkansas 72201
Telephone: (501) 683-0958
Facsimile: (501) 682-2591
Christine.cryer@arkansasag.gov

CERTIFICATE OF SERVICE

I, Christine A. Cryer, Senior Assistant Attorney General, do hereby certify that on December 4, 2017, I electronically filed the forgoing with the Clerk of the Court using the CM/ECF system.

I, Christine A. Cryer, hereby certify that on December 4, 2017, I mailed the document by U.S. Postal Service to the following non CM/ECF participant:

Mr. David Stebbins
123 W. Ridge St., Apt. D
Harrison, Arkansas 72601

/s/ Christine A. Cryer